Amendments to the Drawings

Applicant respectfully requests acceptance of the following changes to the drawings shown in the attached marked up pages 1, 2 and 3. These changes are incorporated in the two (2) pages of formal drawings submitted herewith.

1. Amend Figure 1 block 10 as follows, this change is supported in paragraph [007] of the original specification, which states that "In step 110, the service provider then terminates the call by releasing the allocated communication channel":

Block 10 caption: ~~End of~~ Service Provider terminates OTA call

2. Amend Figure 1 by add "PRIOR ART" to the caption.

3. Amend Figure 2 by correcting the reference designator from "214" to --218-- as supported in paragraph [020] of the original specification.

4. Amend Figure 3 blocks 306 and 308 as follows, these changes are supported in paragraph [022] or the original specification, which states that "Once all OTA messages are exchanged, and the OTA session has ended, the **mobile subscriber unit** can be configured to detect the end of the OTA session in step 306. The **mobile subscriber unit** can be configured to then release the OTA call in step 308, once the end of the OTA session is detected in step 306." (emphasis added)

Block 306 caption: ~~Detect~~ Mobile Unit detects end of OTA Session

Block 308 caption: ~~Release~~ Mobile Unit releases OTA Call

REMARKS

The present amendment is in response to the Office Action dated July 21, 2005, where the Examiner has rejected claims 1-24. By the present amendment, Independent claim 1 and dependent claims 4-7 have been amended, Independent claim 8 and dependent claims 10 and 12 have been amended, Independent claim 13 and dependent claims 17-19 have been amended, and Independent claim 20 and dependent claims 23-24 have been amended,. Reconsideration and allowance of pending claims 1-24 in view of the amendments and the following remarks are respectfully requested.

A.   Defective oath or declaration

The Applicant herewith files a applicant information in application data sheet format. The paper includes the application number and filing date as required.

B.   Rejection of Claims 1-3, 6, 8, 13-15 and 18 under 35 U.S.C. §102(e)

Applicant reserves the right to file a declaration under 37 C.F.R. § 1.131 regarding the Herle reference. However, Applicant asserts that the Herle reference does not anticipate the independent claims as discussed below.

Independent claims 1, 8, and 13, and claims dependent thereupon are rejected as anticipated by Herle. In response, Applicant has amended the independent claims. As such Herle does not teach or suggest each and every element of the claimed inventions as discussed further below.

Specifically, claim 1 claim, among other things, "the mobile subscriber unit terminating an associated over-the-air programming call by releasing the communication channel". In the Office Action, the Examiner cites paragraphs 46 and 61 of Herle as disclosing the mobile subscriber unit terminating an associated OTA programming call. Applicant respectfully disagrees. Paragraph 46, discloses that "the software update procedure ends" in no more updated software code remains. In paragraph 61, the references states that "the download operation ends" if there is no more updated software code. Thus Herle is merely disclosing then an update terminates, which update is controlled by, e.g., a processor. However, he does not

mention actual call termination, and does not teach or suggest that the mobile unit is terminating the call. Applicants amendment to claim 1 clarifies that the subscriber unit is responsible for actually terminating an OTA programming call by releasing the communication channel. As discussed in the background of Applicant's specification, this termination of the prior art is handled from the provider side and not as claimed by Applicant in the invention of claim 1. Thus, Applicant respectfully asserts that claim 1, and claims 3-7 dependent thereupon are patentable over the Herle reference.

Specifically, claim 8 claims, inter alia, "a call terminator coupled to the end session detector the call terminator configured to terminate the over-the-air call by releasing the communication channel when the end session detector detects the end of the over-the-air programming session". Applicant asserts that the Herle reference does not anticipate independent claim 8. As discussed above, Herle does not teach or suggest the element of claims 8 of a call terminator that rleases the communication channel when the end of session detector detects the end of the OTA programming session. The Examiner, on page 3 of the Office Action concerning claim 8 states that "]I]f no more SW remains the software update procedure ends". However, claim 8 goes beyond the mere ending of an update, rather the invention of claim 8 claims releasing a communication channel on the subscriber unit end which is neither disclosed, taught or suggested by the Herle reference. The paragraphs and figures cited by the Examiner of the Herle reference do not disclose the claimed element. Thus, Applicant respectfully asserts that claim 8, and claims 10-12 dependent thereupon are patentable over the Herle reference.

Specifically, claim 13 claims, among other things, "a call terminator configured to terminate the over-the-air programming call when the end session detector detects the end of the over-the-air programming session". Note that this element is claiming the termination of the OTA programming call, not merely terminating a SW update session as disclosed by the Herle reference. Thus, Applicant respectfully asserts that the Herle reference does not anticipate claim 13, and claim 17-19 dependent thereupon.

In view of the above discussion, Applicant respectfully requests the Examiner to withdraw the rejections under 35 USC 102(e) and issue a notice of allowance for these claims.

C.   Rejection of Claims 4,9,11,16 under 35 USC 103(a)

The Examiner rejects the above listed dependent claims as unpatentable over Herle in view of Mittal (US6842613). These claims are dependent upon one of independent claims 1, 8 or 13 as discussed above. Mittal does not cure the basic deficiencies of Herle. That is Mittal does not disclose termination by the mobile unit as claimed in the independent claims. Regarding claim 4, the Examiner cites col 7, lines 43-47 of Mittal which discloses initiated a data call, only, and does not teach or suggest releasing a call by the subscriber unit. More to the point, col 8, lines 12-21 as cited by the Examiner teaches away from Applicant's claimed invention as Mittal teaches that "the data call connection may be terminated by an instruction from the data call connector 62" which as shown in Figure 1 resides in the server not the mobile unit as claimed by Applicant. Col. 9, lines 14-26 of the Mittal patent further discusses the workings of the server. The remaining dependent claims are dependent upon base claims that comprise elements that are not taught or suggest by the cited references. Thus, Applicant asserts that the rejected claims are patentable over Herle and the Mittal references.

D.   Rejection of Claims 5,10,17 under 35 USC 103(a)

The Examiner rejects the above listed dependent claims as unpatentable over Herle in view of Mittal in further view of Nodoushani (US6144849). Nodoushani is added as a reference which would disclose that a time-out period is detected. The Examiner cites col. 11, lines 1-6 which disclose that the OTASP software 34 terminates a session if no activity occurs over the interface of if the session is open too long. However, as shown in Figure 2 of the Nodoushani patent, the OTASP software 34 is associated with the server platform 32 and is not part of the mobile unit. Thus Nodoushani fails to cure the basic deficiencies of the Helfe and Mittal patents. Further, the rejected claims are dependent on independent base claims which Applicant asserts are patentable over the cited art as discussed above. Thus, Applicant respectfully asserts that these claims also are patentable over the cited references.

E.   Rejection of Claims 7,19, 20-22 under 35 USC 103(a)

The Examiner rejects the above listed claims as unpatentable over Herle in view of Dahlin (US5257401). This rejection includes independent claim 20. Dahlin is introduced by the Examiner on page 8 as a reference that teaches a mobile subscriber unit transitioning from a digital network to an analog network while engaged in an OTA programming session. Specifically, the Examiner cites col 15, lines 26-68 of the Dahlin patent. This column discusses hand-off procedures. Hand-off procedures are acknowledged by Applicant in the background of his specification. Hand-off occasionally results in an over the air session not terminating. Applicant's claimed invention offers solutions to this problem. Thus, Dahlin discloses the prior art and does not disclose the claimed invention, nor does Dahlin cure the basic deficiencies of the cited references as discussed above. Specifically, Dahlin does not teach or suggest a device or method in which the mobile subscriber unit terminates an OTA programming call upon detection of conditions that indicate that the session was not properly terminated. Thus, Applicant respectfully asserts that these claims also are patentable over the cited references.

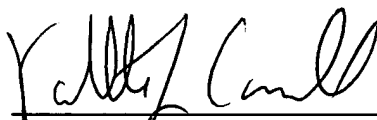### F.   Rejection of Claim 12, 23, ann 24 under 35 USC 103(a)

The Examiner rejects the remaining listed claims as unpatentable over Herle in view of one of Mittal, Dahlin and Nodoushani. As discussed above with reference to the other rejections, these references, alone or in combination do not teach or suggest the elements of Independent claims 1, 8, 13 and 20 and the claims dependent thereupon including the claims listed in this rejection. Thus, Applicant respectfully asserts that these claims also are patentable over the cited references.

G.   Conclusion

For all the foregoing reasons, an early allowance of claims 1-24 pending in the present application is respectfully requested.

Respectfully Submitted,

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Kathleen Connell
Reg. No. 45,344

Kathleen Connell
Kyocera Wireless Corp.
P.O. Box 928289
San Diego, California 92192-8289
Tel: (858) 882-2169
Fax: (858) 882-2485

Appendix A

Clean Copy of Specification Paragraphs

1. Clean copy of amended paragraph [003] of the original specification (paragraph [0005] of publication US2005/0054336) is as follows:

An example of OTA programming in a CDMA network is over-the-air parameter administration (OTAPA), which is governed by the IS-683A standard. An OTAPA call is often initiated by the service provider and can be invoked when parameters to an existing mobile subscriber unit need to be updated.

2. Clean copy of amended paragraph [004] of the original specification (paragraph [0006] of publication US2005/0054336) is as follows:

Another example of OTA programming in a CDMA network is over-the-air service provisioning (OTASP), which is also governed by the IS-683A standard. OTASP is used to provide a method to activate a new subscriber for wireless service. In a conventional service provisioning, a customer would purchase a mobile subscriber unit and go to an activation center. A service provider would establish a user profile, Number Assignment Module (NAM), International Mobile Subscriber Identity (IMSI), Roaming Lists and optionally, service and manufacturer specific parameters. In addition, an authentication key and generation procedure can be established. The same service can be provisioned using OTASP, however, in order to reduce costs to the service provider and to make the process more convenient for the customer.

3. Clean copy of amended paragraph [012] of the original specification (paragraph [0014] of publication US2005/0054336) is as follows:

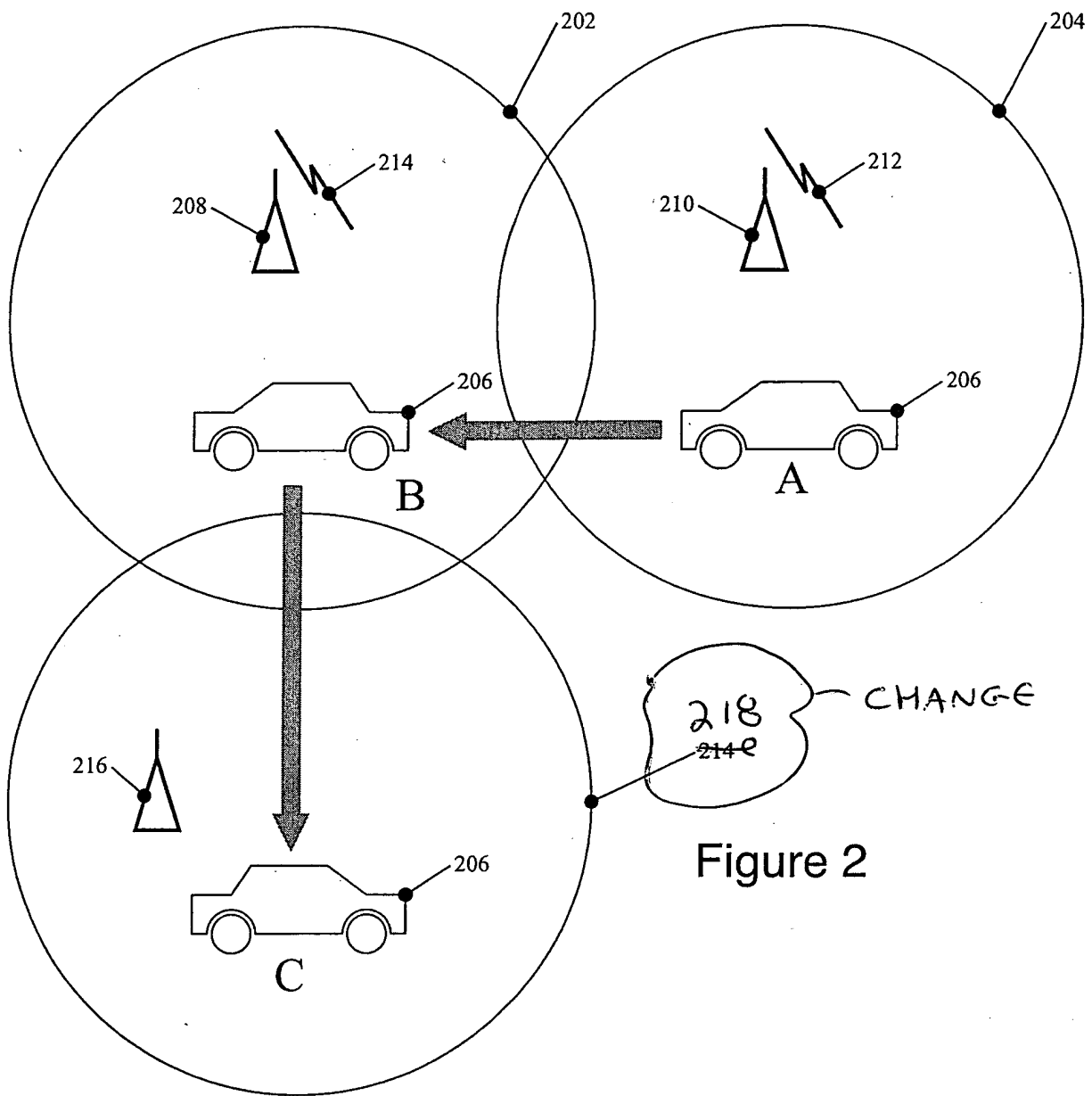Figure 1 is a flowchart illustrating an exemplary OTA programming session of the prior art;
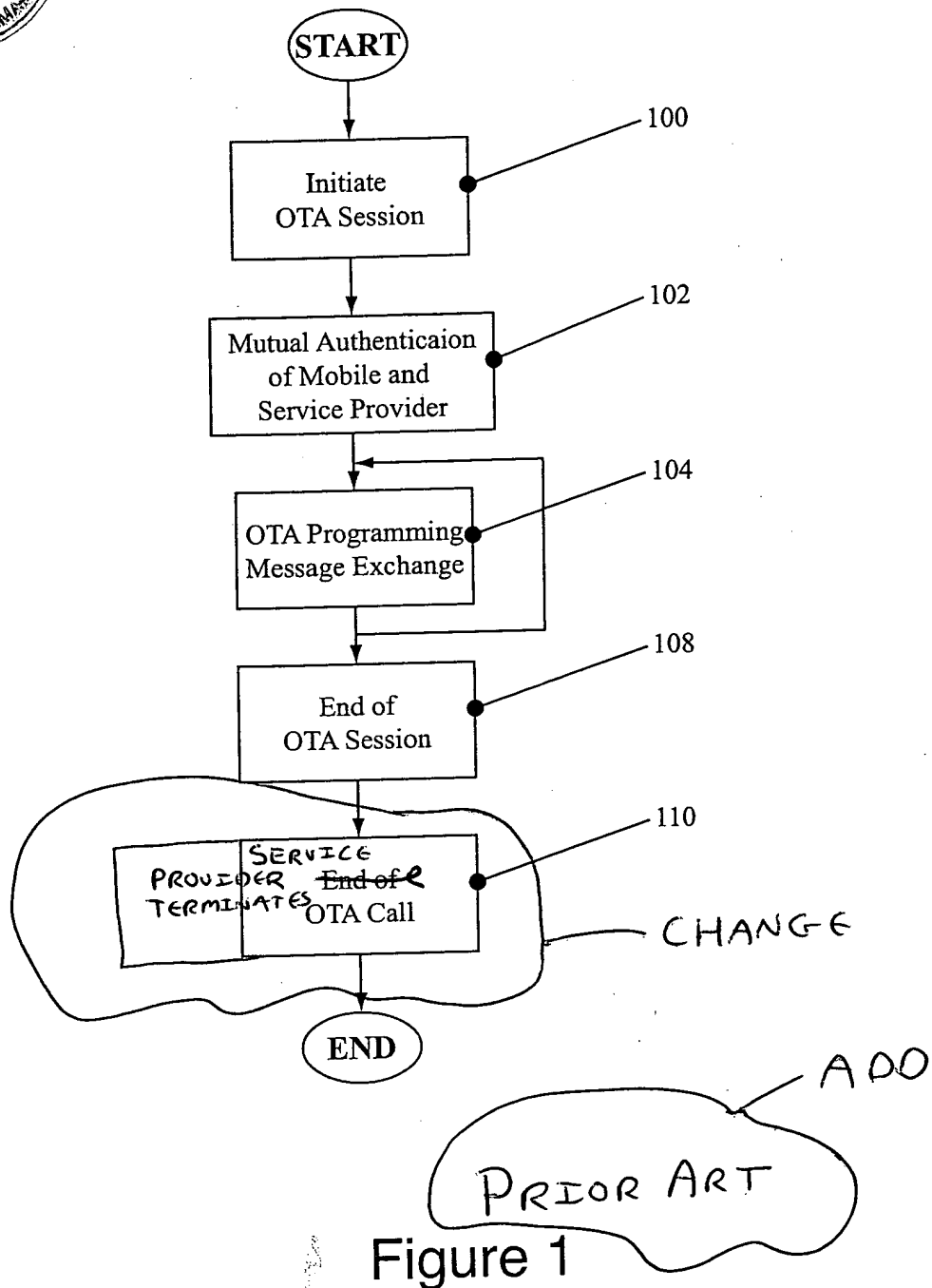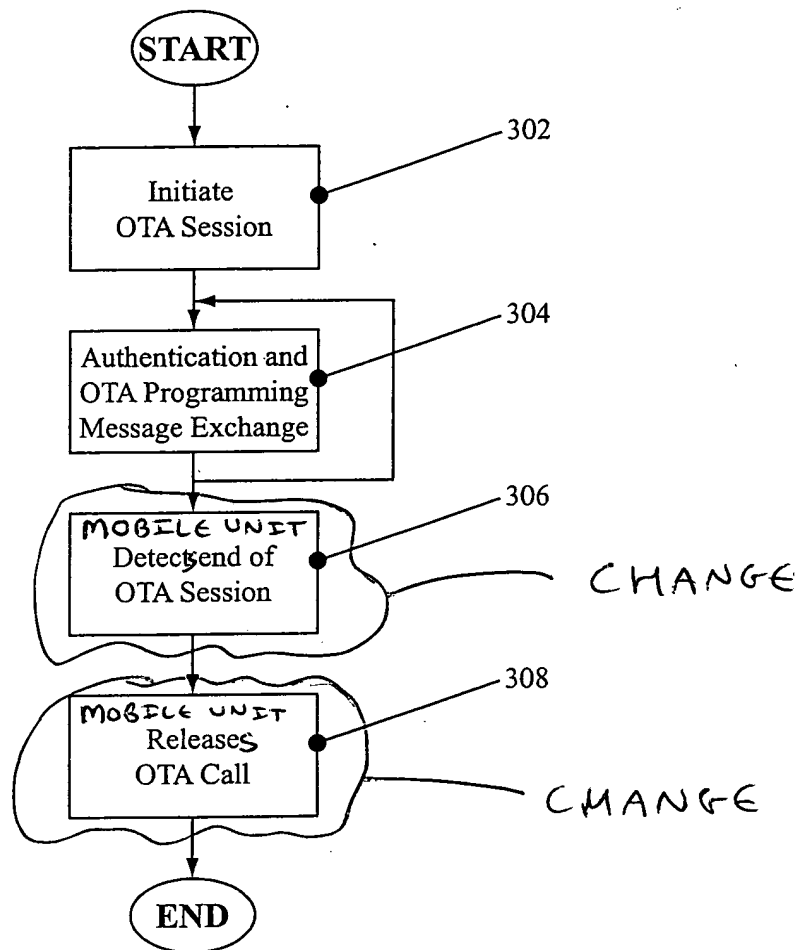
Figure 2

202

204

214

208

210

212

206

206

B

A

216

206

C

218
~~214~~e

CHANGE

START

Initiate
OTA Session — 100

Mutual Authenticaion
of Mobile and
Service Provider — 102

OTA Programming
Message Exchange — 104

End of
OTA Session — 108

SERVICE
PROVIDER End of — 110
TERMINATES OTA Call

CHANGE

END

ADD

PRIOR ART

Figure 1

START

Initiate
OTA Session — 302

Authentication and
OTA Programming
Message Exchange — 304

MOBILE UNIT
Detect end of
OTA Session — 306   CHANGE

MOBILE UNIT
Releases
OTA Call — 308   CHANGE

END

Figure 3

Figure 4